

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MALINKA MOYE,

No. C-14-3121 EMC (pr)

Plaintiff,

v.

**ORDER OF DISMISSAL**NAPA STATE HOSPITAL; *et al.*,Defendants.  

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Malinka Tacuma Wade Moye, formerly an inmate at the San Francisco County Jail and now an inmate at the Napa State Hospital, filed a *pro se* civil rights action under 42 U.S.C. § 1983. The Court reviewed the complaint and dismissed it with leave to amend to cure numerous problems. Mr. Moye then filed an amended complaint, which is now before the Court for review under 28 U.S.C. § 1915A.

The amended complaint in this action is a rambling jumble of ideas and conclusory allegations that is largely incomprehensible, except as mentioned in the next two paragraphs. The amended complaint fails to allege “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Further leave to amend will not be granted because it would be futile: the order of dismissal with leave to amend identified the deficiencies in the original complaint and Mr. Moye was unable or unwilling to cure them in his amended complaint. There is no reason to believe that, with further leave to amend, he would be able to present a coherent statement of his claim(s).

The amended complaint alleges that several defendants provided fabricated reports regarding him in the criminal case pending against him in San Francisco County Superior Court. *See* Docket #

1 10 at 16. The allegedly fabricated reports were reports from psychologists/psychiatrists under the  
2 California Penal Code §§ 1368-1370 proceedings when there is doubt as to a defendant's mental  
3 competence, and a report on his propensity for violence from an expert appointed by the court  
4 pursuant to California Evidence Code § 730.

5 The amended complaint also alleges that Mr. Moye was unlawfully transported to Napa State  
6 Hospital and that antipsychotic medications have been unlawfully administered to him at Napa State  
7 Hospital. *See, e.g.*, Docket # 10 at 6, 11, 16, 24, and 32. However, he also alleges that the  
8 defendants' transportation and medication of him were done pursuant to orders in the criminal case  
9 pending against him. He does not describe any wrongfulness about the transportation or the  
10 medication decisions other than that they were done pursuant to orders that he believes were  
11 defective. For example, he alleges that he is being kept in Napa State Hospital "by fake criminal  
12 court orders," *id.* at 24; and that defendants "issued false reports to S.F. Superior Court, used in fake  
13 trial then issued false reports to Napa State Hospital to secure illegal transport & illegal  
14 administering of drugs also used in fake [California Penal Code §] 1369 trial," *id.* at 32. Exhibits  
15 attached to miscellaneous filings from Mr. Moye indicate that the San Francisco County Superior  
16 Court has ordered him committed to Napa State Hospital because he has been found incompetent to  
17 stand trial pursuant to California Penal Code § 1370. *See* Docket # 15 at 5; Docket # 12 at 7-8.  
18 Exhibits also indicate that the involuntary administration of antipsychotic medication has been  
19 authorized by the San Francisco County Superior Court pursuant to California Penal Code §  
20 1370(a)(2)(ii)(I). *See* Docket # 12 at 6, 8. The only claims the Court understands go to the heart of  
21 criminal proceedings pending against Mr. Moye requires this Court to intrude upon state court  
22 proceedings.

23 Under principles of comity and federalism, a federal court should not interfere with ongoing  
24 state criminal proceedings by granting injunctive or declaratory relief absent extraordinary  
25 circumstances. *See Younger v. Harris*, 401 U.S. 37, 43-54 (1971). The rationale of *Younger* applies  
26 throughout the state criminal proceedings, requiring that state appellate review of a state court  
27 judgment be exhausted before federal court intervention is permitted. *See Dubinka v. Judges of the*  
28 *Superior Court*, 23 F.3d 218, 223 (9th Cir. 1994) (even if criminal trials were completed at time of

1 abstention decision, state court proceedings still considered pending). Requests for declaratory  
2 relief that would interfere with ongoing state criminal proceedings are subject to the same  
3 restrictions that govern requests for injunctive relief. *See Samuels v. Mackell*, 401 U.S. 66, 71–74  
4 (1971); *Perez v. Ledesma*, 401 U.S. 82, 86 n. 2 (1971).

5 *Younger* requires that federal courts refrain from enjoining or otherwise interfering with  
6 ongoing state criminal proceedings where three conditions are met: (1) state judicial proceedings are  
7 ongoing; (2) the state proceedings implicate important state interests; and (3) the plaintiff has the  
8 opportunity to raise his federal constitutional concerns in the ongoing proceedings. *Middlesex*  
9 *County Ethics Comm. v. Garden State Bar Assn.*, 457 U.S. 423, 432 (1982); *Dubinka*, 23 F.3d at  
10 223. Here, all three prongs of the abstention test are met. First, the state criminal proceedings are  
11 ongoing in San Francisco County Superior Court. Second, the criminal prosecution involves  
12 important state interests. *See Kelly v. Robinson*, 479 U.S. 36, 49 (1986) (“the States’ interest in  
13 administering their criminal justice systems free from federal interference is one of the most  
14 powerful of the considerations that should influence a court considering equitable types of relief”)  
15 (citing *Younger*, 401 U.S. at 44–45). Third, Mr. Moye can present in the state trial and appellate  
16 courts his claims that the experts’ reports, his transfer to Napa State Hospital and medication while  
17 there were unlawful.

18 Even when the three-pronged test is satisfied, however, a party may avoid application of the  
19 abstention doctrine if he can show that he would suffer “irreparable harm” that is both “great and  
20 immediate” if the federal court declines jurisdiction, that there is bad faith or harassment on the part  
21 of the state in prosecuting him, or that the state tribunal is biased against the federal claim. *See*  
22 *Middlesex*, 457 U.S. at 437; *Kugler v. Helfant*, 421 U.S. 117, 124–25 (1975); *Younger*, 401 U.S. at  
23 46. Here, Mr. Moye does not make any plausible non-conclusory allegation of irreparable harm, bad  
24 faith, harassment, or bias of the tribunal. *See generally Younger*, 401 U.S. at 46, 53–54 (cost,  
25 anxiety and inconvenience of criminal defense is not the kind of special circumstance or irreparable  
26 harm that would justify federal intervention). The *Younger* factors weigh strongly against  
27 interfering with the state criminal case. *Younger* abstention is warranted. *See Juidice v. Vail*, 430  
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1 U.S. 327, 348 (1977) (where a district court finds *Younger* abstention appropriate, the court may not  
2 retain jurisdiction and should dismiss the action). The action must be dismissed.

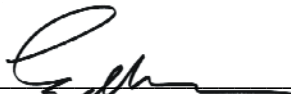
3 For the foregoing reasons, and the reasons stated in the order of dismissal with leave to  
4 amend, this action is DISMISSED for failure to state a claim upon which relief may be granted and  
5 because *Younger* abstention is required as to the claims arising from the state court criminal case  
6 against Mr. Moye.

7 In light of the dismissal of this action, Mr. Moye's pending motions are DISMISSED as  
8 moot. Docket # 7, # 11, # 14, and # 16.

9 The Clerk shall close the file.

10  
11 IT IS SO ORDERED.

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13 Dated: November 14, 2014

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EDWARD M. CHEN  
United States District Judge